

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: A8427

Mary G. HOFFEE et al

Application No.: 10/700,632

Group Art Unit: 1643

Confirmation No.: 8127

Examiner: Blanchard, D.

Filed: November 5, 2003

For: ANTI-CD33 ANTIBODIES AND METHODS FOR TREATMENT OF ACUTE
MYELOID LEUKEMIA USING THE SAME

SUBMISSION OF EXECUTED DECLARATION UNDER 37 C.F.R. §1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a copy of Dr. Lambert's executed Declaration Under 37 C.F.R.

§1.132.

Respectfully submitted,

/William J. Simmons/

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 20, 2007

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: A9159

Mary G. HOFFEE, et al.

Application No.: 11/400,241

Group Art Unit: 1643

Confirmation No.: 3247

Examiner: David J. BLANCHARD

Filed: April 10, 2006

For: ANTI-CD33 ANTIBODIES HUMY9-6 AND MUMY9-6 AND METHOD FOR
TREATMENT OF ACUTE MYELOID LEUKEMIA USING THE SAME

DECLARATION UNDER 37 C.F.R. § 1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, John Lambert, hereby declare and state:

THAT I am a citizen of United States of America;

THAT I have received the degree of Ph.D. in Biochemistry from the University of

Cambridge, England, UK;

THAT I have been employed by ImmunoGen, Inc. since 1987, where I hold a position as
Senior Vice President, with responsibility for Pharmaceutical Development;

Mark Hardy, one of the authors of the Weitzhandler *et al.* publication, directly worked
under my supervision and control from March 25, 1991 until March 22, 1995 at ImmunoGen,
Inc.;

THAT I have reviewed the Second Exam Report in the above mentioned application
mailed June 22, 2007.

Weitzhandler *et al.* discloses My9-6, an antibody owned by ImmunoGen Inc., the Assignee of the instant application. Mark Hardy, an ImmunoGen, Inc. employee, is an author of Weitzhandler *et al.* My9-6 was under the control of Mark Hardy, was used for ImmunoGen, Inc. purposes and was not distributed to the public as of the date that Weitzhandler *et al.* was published. Moreover, as indicated at paragraph 245 of the pending application, the My9-6 antibody of the present invention was not deposited in the ATCC until November 7, 2002. Therefore, the antibody itself was not publicly available as of the 1994 publication date of Weitzhandler *et al.*

Furthermore, Weitzhandler *et al.*, is very limited in scope. For example, Weitzhandler *et al.* does not identify, either explicitly or implicitly, the identify of the antigen to which My9-6 binds. Weitzhandler *et al.* does not teach a scientist of ordinary skill how to make and use My9-6. The reference also fails to identify the antibody's sequence, either as all. encoding polynucleotide or a polypeptide. Because the reference fails to disclose any meaningful information about the antibody, it impossible for one of ordinary skill in the art to create MY9-6 based on the disclosure of Weitzhandler *et al* thus the disclosure of a name, i.e., My9-6, alone cannot place the subject matter of Applicants' claims in the public.

I hereby declare that all statements made herein of my own knowledge are, true, that all statements made on information and belief are believed to be true, and that willful false statements may jeopardize the validity of the application or any patent issued thereon.


I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these

DECLARATION UNDER 37 C.F.R. § 1.132
U.S. Application No.: 11/400,241

Attorney Docket No.: A9159

statements were made with the knowledge that willful false statements and the like so made are punishable, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 08 AUG 2007



John Lambert